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REPORT
OF THE
BOARD OF TRUSTEES
OF THE
BURNHAM ASSOCIATION OF AMERICA,
INCLUDING THE
REPORT OF EDWARD PAYSON, ESQ..
AS AGENT AND ATTORNEY.

BOSTON :
SMITH & PORTER, PRINTERS, OLD SOUTH CHAPEL, SPRING LANE.
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AUG 20 1891

REPORT OF EDWARD PAYSON.

GENTLEMEN, — Having discharged the trust committed to my hands in relation to the Burnham property in England, it is only proper that I should render a report in writing of my doings in the premises, and of the conclusion to which I have been conducted. And inasmuch as some light will thereby be thrown upon the report itself, you will allow me to introduce a few prefatory remarks as to the circumstances under which my engagement was entered into.

The Association was already formed, and a considerable amount of money had been raised to promote its objects, before I had any connection with the matter. When I was first approached on the subject, I did not hesitate to express my want of confidence in the enterprise, and my reluctance to enter upon it, since failure seemed to me a foregone conclusion. And, be it observed, this want of confidence at that time was not founded upon a knowledge of any particular features belonging to the case, but upon a general distrust extending to all matters of this nature. That general distrust was afterwards exchanged for something more definite, as new facts were from time to time revealed; but they came into my possession after the contract

had been entered into, and after my employment as agent had been advertised all over the country, so that it seemed too late to recede. And among these facts was the report that had been already made by Mr. Fisher, who visited England on a similar errand some years ago. That report, it is true, was placed in my hands when I was in Boston, but I did not read it until I was on ship-board during the voyage. Had I been fully acquainted with its contents earlier, I do not think I ever should have consented to engage in the business; for I should have felt that the question had been very nearly exhausted already. That was one fact, and there were a number of others of less significance.

But, as your secretary, Mr. Louis W. Burnham, of Boston, and Mr. S. Burnham, of Norway, Me., will doubtless recollect, it was replied to my doubts then and there expressed, that the object in view was not solely, or even chiefly, to collect money or recover an estate, but that the parties would feel they had received an equivalent for their expenditures, even if the result should be only to set at rest a long vexed question. .

Well, at the time when that conversation was held in my office, a new interest had been imparted to the subject, and a new spasm of feeling had shown itself, growing out of the reported finding of a Will of Benjamin Burnham. Nor when afterwards, upon a more sober reflection, and a more careful sifting of the testimony and of all the circumstances, that reported finding of a Will was rejected as totally unworthy of credit, did the minds of the parties subside to the former level. A hope had been kindled which before it could be quenched, seemed to demand counter-testimony, so that for that reason, if for no other, the first thing to be done was to settle the point as to whether Benjamin Burnham made a Will, and, if so, whether it was still in existence.

Indeed, it is not saying too much to claim that the whole matter hinged almost entirely upon that point. For in the first place, if there was no Will, the whole question of the Real Estate was at once disposed of, so far as concerns the heirs of Benjamin Burnham, since the older brother and his descendants would take the whole of it, and Regent Street, with all its accumulative value, would belong to him, to the exclusion of his younger brothers.

And then as to Personal Property. If there is no Will describing it, it can only be traced through a period of six or seven generations, by the most vague, indistinct, uncertain ear-marks. Certain repositories doubtless may be consulted, and one may feel his way along by such slender threads as chance may offer; but it is after all work in the dark, when one can hardly hope to win success even by stumbling upon it. For these reasons, as well as others, it seemed of paramount importance to get hold of a Will, or to settle the point forever that there was no such thing in existence; and Col. Chester fully agreed with me in considering this the turning point in the case.

Having alluded to a pretended finding of such a document by one of your former agents, it may be said as well here as anywhere, that the statement assumes certain things to be true, as to which it can only be said they are impossible. I believed this before I left America. I have subjected the matter to new tests since coming here, and I am more persuaded of it than ever. People here with whom I have talked on the subject, and who are perfectly familiar with the way such things are conducted here,—among whom is the gentleman already alluded to,—do not hesitate to pronounce the whole story simply absurd.

It would seem then, that the agent alluded to was badly hoaxed. But if by availing himself of extraordinary aids not accessible to the general public, or by the use of machinery not commonly resorted to for such a purpose, he *did* find, not what merely purports to be, but what in deed and in truth *is*, a veritable Will of Benjamin Burnham, he doubtless has the material in his own hands by which he can easily set the whole question at rest.

By his own account of the matter, he was led to the discovery of the document by “stumbling,”—that is to say, he had the assistance of what, for want of a better word, we commonly term luck. And for this very reason his employers had a double right to know from him how the thing had all happened. Had he accomplished what he claims to have done in a regular way, by following the ordinary channels, and without the assistance of chance at all, there would have been nothing to hinder another person—any number of persons, from doing the same thing, and so *his* revelations would be of comparatively small value, and his employers might readily consent to dispense with the same. But he did nothing of the kind. He “stumbled” upon this document. Even that perhaps surprises us a little, and we regard it as a piece of good luck rather beyond the average, when man stumbles so happily.

But how infinitely more wonderful the luck, should a second person happen to stumble at the same point and in the same manner, and so he too make the same discovery. In other words, how almost beyond belief is it, that in a city like London two persons should stumble at exactly the same place and both find their account in it. But just in proportion as such a thing is unlikely, in the same proportion was this agent’s

knowledge thus acquired of value to the parties interested, and by the rule here found was to be measured their right to have this knowledge made absolutely safe, — to have it put beyond all risk of being lost again. And this, if I am correctly informed, the agent refused to have done.

But the assumption is, that the clerks in the departments here are disobliging; that they are arrayed in absolute hostility against all inquiry, — a hostility which is to be overcome only by bribery, by “dining” and “wining,” and taking to the theatre some one of these officials, — the first one applied to, it seems, having luckily proved to be the one that was wanted, and all the others becoming supple and complaisant enough, after this weak brother of theirs has betrayed them by letting out the invaluable secret; and, as the story runs, “they see that the cards have passed out of their hands.” Argument would be wasted, language thrown away, in any attempt to make the absurdity of such a pretence greater than the mere statement of it at once discloses.

The point then to be established being this: Is there a Will of Benjamin Burnham in existence? what is the course to be pursued in order to settle that question? It is not a question of “stumbling.” It is not a question of “dining” and “wining” a clerk who turns up opportunely to connive at such a piece of trickery. There are certain repositories to be examined, beginning with the most hopeful, and coming down to those that are less so; and when that process is completed, that is the end of the rope, as to any *affirmative* proof. After that nothing is left *but* stumbling. It is true that after exhausting this affirmative process, one may still get hold of certain facts which go to raise a presumption that there *never was* a Will. If, for instance, it is ascertained that no advertisement has ever been made for parties

whom it is customary to notify in that way, so far it tends to show that there was neither Will or Property. To refer again in this connection to Mr. Fisher's report. He makes a thorough search in Doctors' Commons. He consults records in the British Museum. He inquires at the office of Escheats. He looks over 200,000 advertisements, and he finds nothing — absolutely nothing. Whether he visited a repository known as the Public Record Office, I do not certainly know; but I have done so, and with no better success than in the others.

Now I am very far from meaning to say by all this, that Mr. Fisher's report, in the opinion of Col. Chester or myself, made a similar examination any less necessary on our part. We have gone over the same ground again, the result being that his report is confirmed in every particular. There is no hint to be found anywhere of any Will or of any Property left by Benjamin Burnham.

Nor is the inquiry attended with any better results outside of London. I spent several days at Norwich, where it is assumed that the Burnham family had their origin, and looking over the calendar of Wills from 1620 down to 1800, I found the name of Burnham but once in all that length of time. There is a gap in this calendar from 1651 to 1660, but with this exception the record seems to be perfect, and to have been preserved with care in bound volumes. To this there was an exception covering a few years of a certain class of Parishes, the records of which were not *bound*, but preserved only in detached papers; and it was in a large roll of these that the name of Burnham occurred as already mentioned, — one William Burnham's Will having been there found, executed in 1642, but all contained upon a single page much smaller than the one I am now writing on, and of no possible significance. I then visited a number of the

Parishes with a view to verify the marriage of Robert Burnham and Mary Andrews, in 1608, but was equally unsuccessful; nor had I any better fortune in looking for the baptism of Robert Burnham in 1581.

There seemed to be some reason for supposing that Bristol might furnish a hint on the subject, and I accordingly visited that town. I examined the calendar of Wills over a space of 250 years, and the name of Burnham did not occur at all.

Another point upon which considerable stress has been laid was that a suit had been going on in Chancery for more than sixty years about this property, and that the Burnham parties in England had failed in the suit, because they did not negative the existence of heirs in America. I was unable to find evidence of any such Chancery proceedings whatever. I made as careful and thorough a search into this matter as any means at my command would admit of, and found nothing.

So much for records. How does the matter stand outside of any records? As to Real Estate, the theory is that Benjamin Burnham owned very largely on Regent Street, Lambeth, London, the value of this property being variously estimated at from \$22,000,000, up. Now the only Regent Street in London where any value like this can be found, has no such name as Lambeth connected with it at all, nor ever had. There is an outlying Parish called Lambeth, which I visited, and in *it* there is a Regent Street, but it was never worth any such sum as that above named.

But there is a still more conclusive objection to this idea of Real Estate. And first, supposing Regent Street proper to be intended — that is wealthy Regent Street — there is this difficulty, that it was built under an Act of Parliament passed in 1813.

The peculiar line of the street was adopted because nearly the whole of the ground through which it passed was the absolute property of the Crown. The only lands purchased for the street were those containing Foley House, the property of Lord Foley, which had been in his hands for generations. And this portion even, is not properly Regent street, but its extreme northern end, known now as Langham Place.

But the attempt to locate the property in Regent Street, Lambeth, is equally vain. The Manor or Parish of Lambeth embraces the entire region in the neighborhood of the palace of the Archbishop of Canterbury, including Lambeth Walk and Regent Street. The earliest record of it is in 1062, when Edward the Confessor granted it to the Abbey of Waltham, in Essex. At the Conquest it was seized by William the Conqueror, but was subsequently given by William Rufus to the Bishop and Priory of Rochester. In the year 1197 they exchanged it with Hubert, Archbishop of Canterbury, for the Manor of Dartford, in Kent. The Manor has remained ever since with the Archbishop of Canterbury, except for a short period during the time of Cromwell, when it was sold to Thomas Scott and Matthew Harding for £7072; but on the Restoration in 1660, it came to the see again. Not a foot of the land has ever been parted with, and for nearly 700 years the regnant Archbishop of Canterbury has been, and still is, the absolute owner in fee of the whole territory.

Here then a negative is proved absolutely as to all this vast Real Estate, computed at many millions. It is shown as clearly as a thing of this nature can ever be shown, that Benjamin Burnham never owned a foot of it.

The discredit which is thus given to the accounts of the Personal Property, different persons will estimate differently. As to the

Real Estate there has evidently been a great sham sustaining itself for many years, how originating it is not possible, nor very important, to say. *That* sham has come to its death. Nor, all things considered, does the case seem much less plain as regards the Personal Property. It appears never to have been advertised. Why not? There is no account of any administration; there is no Will, certainly none to be found; and the proof that there never was any such document is very nearly perfect.

I cannot conclude this report without expressing my deep sense of obligation to Col. Joseph L. Chester, of London, whose intimate and extensive acquaintance with matters of this nature, and whose abundant materials, collected during a period of fifteen years' devotion to literary pursuits of a kindred character, give to his aid a value which in the same kind no other man in the kingdom possesses. His own report, relating more particularly to that branch of the subject which fell to his hands, will be forthcoming as soon as his health permits.

The points established by the foregoing report, I conceive to be these :

First. — That it is absolutely impossible, in the very nature of the case, that any Will of Benjamin Burnham could ever have been found in the manner as represented by a former agent.

Second. — That no Will of the said Burnham is now in existence.

Third. — That there is not now, nor ever could have been, any Real Estate answering to the description heretofore given of this property.

Fourth. — That from the very nature of the tenure by which the lands in question have been held both in London and in Lambeth, it is simply impossible that Benjamin Burnham ever could have been the owner of them.

Fifth. — That a very strong presumption is created, that said Benjamin Burnham did not die possessed of the Personal Property which has been attributed to him.

And in closing, a word or two of general application in reference to “English Claims,” so-called, may not be altogether out of place. It is somewhat notorious that in relation to such claims, parties interested often think more of the magnificence of the claim itself, than they do of the evidence by which it is supported. Romantic imaginings give to mere loose, traditional statements, a value and a significance that belong only to authenticated records and well established facts. The very distance of the location of these claims, helps the glamor by which their victims are seduced; and they are led to institute proceedings on a foreign soil, and to seek the recovery of property before a foreign tribunal, upon a state of facts and an amount of testimony which, themselves even being judges, would be quite insufficient to justify similar attempts in a home court. But the foundation of such proceedings is the same everywhere, — it rests upon purely legal points, whose absence is fatal in one case as much as in the other. As there is no special opposition to the paying over of an established claim, which opposition is to be met and overcome by bribery; so on the other hand there is no careless acquiescence — no ready relinquishment of the terms upon which such claims are to be allowed.

The mere antiquity of many of these claims is absolutely fatal to them. To “set up” or prove a will, executed two hundred years ago, the effect of which shall be to despoil one party and endow another, may be pronounced nearly or quite impossible; while the difficulty of making out identity after such a lapse of time, and of bringing the real parties before the court to the exclusion of those who are not so, is exceedingly great, to say the least of it.

Hoping, gentlemen, that this report will seem as conclusive to your minds as it does to mine,

I am, very respectfully yours,

EDWARD PAYSON.

To Messrs. —

| | | |
|-------------------|---|---------------------------|
| J. PRESCOTT, | } | <i>Board of Trustees.</i> |
| HENRY A. BURNHAM, | | |
| LOUIS W. BURNHAM, | | |
| C. C. SHAW, | | |
| S. F. PAIGE, | | |

LONDON, *May* 19, 1873.

P.S. — The foregoing report is supposed to be complete in itself, — an absolute negative having, it is claimed, been established as to the Real Estate. But one point, left untouched, is worth a moment's attention, with more particular reference to Personal Property. It is this. That had a Will of Benjamin Burnham been discovered, as yet unproved, the difficulties in the way of making out such proof as any legal tribunal would accept, both as to the execution of the instrument and as to the relationship and identity of parties claiming under it, would be found nearly or quite insurmountable. I am aware that this is not a new point, nor is it one that required a trip across the Atlantic to discover it; but if there still remain those who believe in the existence *somewhere* of such a Will, it may relieve their disappointment at its not having been found, to reflect, that the finding of it would only have removed out of the way *one* of the obstacles, — and that by no means a slight one, — that separates them from the recovery and enjoyment of the property in question.

E. P.

TO THE BURNHAM FAMILY.

The Trustees of the Burnham Association of America have pleasure in presenting herewith the final report of Mr. Edward Payson, of Portland, Maine, who has been in England since the first of March, prosecuting the investigations for which the Association was organized.

Now that this *glittering bubble*, the so-called "Burnham Estate in England," has been effectually pricked, it is perhaps proper that the Trustees should state, that, as early as the first of last December, some members who had been most intimately associated with Mr. Russell in his efforts to raise funds for the continuance of his investigations, had become suspicious that his statements relative to his having found a Will of Benjamin Burnham, in London, were not to be wholly relied upon. Subsequent revelations have only served to confirm these early suspicions.

The Trustees were aware, however, that many of the friends in Boston and vicinity still had confidence in him; and it was evident that should they dismiss him, or themselves resign, further efforts would be made to continue his agency. But as the Board had been selected to guard the interests of all the members, and had entered upon their trust in good faith, a course of action was decided upon, which it was confidently believed would not only bring about a permanent and satisfactory settlement of the whole question, but protect the family from the machinations of unscrupulous and irresponsible agents in the future. This course has been pursued against every obstacle; and the Trustees have managed the affairs of the Association with such ability and judgment as they possessed,—the entire proceedings having been conducted as expeditiously and economically as possible, under the circumstances.

The report of Mr. Payson is full and explicit, and the results of the investigation satisfactory to the Board. The deceptive and rascally proceedings of former agents are at last laid open to public view; and the thousand-and-one traditional stories that have accumulated for generations as to our untold millions of property "over there," have been rather summarily upset.

Indeed, the existence of the Real Estate has been *absolutely* negated; and the grounds for supposing there was ever any considerable amount of Personal Property have been destroyed; so hereafter the Burnham family can have the satisfaction of knowing that they have reached the bottom of this perplexing matter.

Among other things, Mr. Payson went to England to find the Will of Benjamin Burnham, said to have been made something like a hundred and seventy-five years ago! Our friends will learn, perhaps with regret, that he did not find it! The majority of them will doubtless believe with the Board, that there is not now, nor was there ever, such an instrument in England for *any* body to find, — except perhaps in the hungry imagination of some would-be English-Estate Agent, anxious for a trip to Europe.

If, however, any are dissatisfied with the results, we can only console them with the assurance that whenever Mr. Russell, or any other man, shall bring us a genuine, certified copy of the Will of Benjamin Burnham, we will again subscribe liberally for another investigation; but until that is done, it is presumed that the more sensible portion of the Burnham family will rest their souls in peace, at least as to the recovery of any so-called English Estate.

It would have been gratifying to the Trustees to have included herewith the supplemental report of Col. Chester, which is directed more especially to historical and geneological details. That gentleman's protracted illness, however, has postponed his report to a future day.

The main purpose of the Association having been thus accomplished, it now remains for the members to determine whether they will disband, or on the contrary, they will not find a reason for continuing the alliance thus formed, in the tendency it shall have to promote family intercourse, to strengthen family friendships, and to develop family resources, either of a moral, social or material nature. Closing this report with this suggestion, and leaving it for the Association to decide, your Trustees believe that, with the Treasurer's report herewith submitted, and the return to members of all unused funds, their trust is at an end; and would fain hope that it has been discharged to the satisfaction of every individual member.

All of which is respectfully submitted.

LOUIS W. BURNHAM,

Sec'y of the Board of Trustees.

TREASURER'S REPORT.

TO THE TRUSTEES OF THE BURNHAM ASSOCIATION.

GENTLEMEN :

Herewith I present to you the financial condition of the BURNHAM ASSOCIATION, June 13, 1873.

NUMBER OF SUBSCRIBERS AND AMOUNTS RECEIVED FROM THE FOLLOWING STATES:

| | | |
|-----|----------------------------------|-----------|
| 151 | Massachusetts | \$1609 20 |
| 40 | New Hampshire... | 411 00 |
| 26 | Maine..... | 408 00 |
| 36 | Vermont..... | 365 00 |
| 19 | Illinois... | 155 00 |
| 17 | Wisconsin | 150 00 |
| 8 | New York..... | 60 00 |
| 5 | Connecticut..... | 40 00 |
| 2 | Ohio..... | 40 00 |
| 4 | Missouri..... | 21 00 |
| 5 | California..... | 21 00 |
| 6 | Iowa..... | 20 00 |
| 1 | Michigan..... | 5 00 |
| 1 | Kentucky..... | 5 00 |
| 1 | Nebraska..... | 5 00 |
| 1 | District of Columbia..... | 20 00 |
| 8 | Canada..... | 40 00 |
| 1 | New Brunswick..... | 5 00 |
| | Miscellaneous Subscriptions..... | 37 50 |

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CONTRA.

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|--|----------|
| Charles Russell, for account of New Hampshire Committee..... | \$258 00 |
| Edward Payson, for Salary and Expenses to England..... | 1486 84 |
| Col. J. L. Chester, services as English Attorney..... | 272 02 |
| Printing and Advertising..... | 192 65 |
| Rent of Halls for Meetings..... | 42 00 |
| Oliver Stevens, Attorney (Manning Injunction Suit)..... | 110 00 |
| Travelling, Postage, Stationery, and other Miscellaneous Expenses..... | 395 16 |
| Balance cash on hand..... | 661 03 |

\$3417 70 \$3417 70

The above balance is what remains in my hands as Treasurer of the Burnham Association, which will be still further reduced by bill for printing Reports, and some other small bills yet unsettled. A full report, containing a *pro rata* statement of funds returnable, will be made at an early day. All of which is

Respectfully submitted.

HENRY A. BURNHAM, TREASURER.

Examined and approved by the Board of Trustees.

L. W. BURNHAM, *Secretary.*

BOSTON, June 16, 1873.





BOSTON PUBLIC LIBRARY



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(Feb., 1891, 20,000)

BOSTON PUBLIC LIBRARY.

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Borrowers finding this book mutilated or unwarrantably defaced, are expected to report it; and also any undue delay in the delivery of books.

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